

Proposed Regulations: Alternative Management Standards for Treated Wood Waste; R-2005-04

October 25, 2006

Adopt section 66261.9.5. of the California Code of Regulations, title 22, division 4.5, chapter 11, article 1 to read as follows:

§66261.9.5. Requirements for Treated Wood Waste

Treated wood waste as defined in section 67386.4 when managed as specified in chapter 34 is exempt from the management requirements of Chapter 12 through 20.

NOTE: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Section 25150.7, Health and Safety Code.

Amend Appendix XII of the California Code of Regulations, title 22, division 4.5, chapter 11. Insert, in numerical and in alphabetical order within the existing section to read as follows:

(a) Subdivisions (b) and (c) of this appendix establish the California Hazardous Waste Code Numbers assigned to wastes which have been identified as hazardous wastes pursuant to the characteristics of hazardous waste as set forth in article 3 of this chapter or pursuant to the lists of hazardous wastes in article 4 of this chapter. These Waste Code Numbers shall be used in complying with the notification requirements of Health and Safety Code section 25153.6 and, where applicable, in the recordkeeping and reporting requirements under chapters 12 through 15, 18, and 20 of this division.

(b) List of California Hazardous Waste Codes arranged in numerical order:

613 Auto shredder waste

614 Treated wood waste

(5) California Restricted Wastes:

711 Liquids with cyanides ≥ 1000 mg/l

(c) List of California Hazardous Waste Codes arranged alphabetically within each numbered category in this subdivision:

541 Photochemical/photoprocessing waste

614 Treated wood waste

(5) California Restricted Wastes:

721 Liquids with arsenic ≥ 500 mg/l

NOTE: Authority cited: Sections ~~208~~ and 25150 and 58012, Health and Safety Code.
Reference: Sections 25117.9, 25122.7, and 25150, Health and Safety Code.

Adopt Chapter 34, division 4.5, title 22, of the California Code of Regulations to read as follows:

Chapter 34. Alternative Management Standards for Treated Wood Waste

§ 67386.1 Scope

(a) This chapter provides an alternative set of management standards in lieu of the requirements for hazardous waste pursuant to articles 6, 6.5, and 9, chapter 6.5, division 20, Health and Safety Code, and chapters 12, 13, 14, 15, 16, 18, and 20 of this division for a person managing treated wood waste (TWW). All other chapters of this division, and section 66264.101, chapter 14, division 4.5, title 22, apply to persons managing TWW.

(b) Nothing in this chapter is a limitation on the power of this or any other governmental agency to adopt or enforce additional requirements related to the management of TWW.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.2 Applicability

(a) The alternative management standards of this chapter apply only to wood waste that meets all of the following:

- (1) is a hazardous waste pursuant to chapter 11 of this division; and
- (2) is a hazardous waste solely due to the presence of a preservative in or on the wood that is registered in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use as a wood preservative; and
- (3) is not subject to regulation as a hazardous waste under the federal Resource Conservation and Recovery Act (RCRA).

(b) The alternative management standards of this chapter do not apply to wood waste exempted from hazardous waste management standards pursuant to Health and Safety Code section 25143.1.5.

(c) The following wood wastes are not eligible for the alternative management standards of this chapter:

- (1) wood waste that is hazardous due to the presence of coatings, paint, or other treatments that are not registered in accordance with FIFRA for use as a wood preservative; or
- (2) wood waste when designated to be burned.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25143.1.5, 25150.7 and 25150.8, Health and Safety Code.

§ 67386.3 Prohibited Activities

(a) TWW managed in accordance with the alternative management standards of this chapter shall not be:

- (1) burned;
- (2) scavenged;
- (3) commingled with other waste prior to disposal, if previously segregated;
- (4) stored in contact with the ground;
- (5) recycled, with or without treatment, except as provided for in subsection (c)
- (6) treated except in compliance with section 67386.10; and
- (7) disposed to land except in compliance with section 67386.11.

(b) Any label or mark that identifies the wood waste as TWW shall not be intentionally removed, obliterated, defaced, or destroyed prior to disposal in a landfill.

(c) TWW may be recycled only by reuse pursuant to specified conditions. During reuse, the TWW is not subject to sections 67386.5 through 67386.11. TWW may only be reused when all of the following apply:

- (1) reuse is onsite, and
- (2) at the time of reuse, reuse is consistent with a FIFRA approved use of the preservative with which the TWW has been treated, and
- (3) prior to reuse, the TWW is handled in compliance with all applicable management standards of this chapter.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.4 Definitions

The definitions set forth in section 66260.10 of this division shall apply unless otherwise defined. The following definitions shall apply to the terms used in this chapter:

“Agent” means a person hired by a generator for the removal, collection, or transportation of TWW.

“Class 1 hazardous waste landfill” means a landfill as defined in section 66260.10, which is also authorized as part of a permitted facility as defined in section 66260.10.

“Composting Facility” means a facility that produces compost as defined in Public Resources Code, section 40116 and is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

“Gasification Facility” means a facility that utilizes a gasification process as defined in Public Resources Code, section 40117 and is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

“Resizing” means the minimal cutting, breaking, or sawing, but does not include planing, grinding, chipping, sanding, shredding, mulching, or other mechanical handling or any other treatment.

“Solid Waste Landfill” means a facility as defined in Public Resources Code, section 40195.1 that is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

“Transfer or Processing Station” means a facility as defined in Public Resources Code, section 40200 that is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

“Transformation Facility” means a facility that utilizes a transformation process as defined in Public Resources Code, section 40201 and is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

“Treated wood” means wood that has been treated with a chemical preservative for purposes of protecting the wood against attacks from insects, microorganisms, fungi, and other environmental conditions that can lead to decay of the wood and the chemical preservative is registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 and following).

“Treated Wood Waste” means a waste that meets the requirements of section 67386.2(a).

“TWW” means “Treated Wood Waste.”

“TWW approved landfill” means either a class 1 hazardous waste landfill, or a composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, and that is regulated by waste discharge requirements issued pursuant to division 7 (commencing with § 13000) of the Water Code for discharges of designated waste, as defined in section 13173 of the Water Code, or treated wood waste and that is in compliance with this chapter.

“TWW facility” means either:

- (a) a solid waste landfill, as defined in this section, that is in compliance with this chapter; or
- (b) a transfer or processing station, as defined in this section, that is in compliance with this chapter; or
- (c) a gasification facility, as defined in this section, that is in compliance with this chapter; or
- (d) a TWW approved landfill, as defined in this section, that is in compliance with this chapter; or
- (e) a class 1 hazardous waste landfill.

TWW Facility shall not include composting facilities, or transformation facilities.

“TWW handler” means a person who generates, handles, collects, processes, accumulates, stores, transfers, transports, treats, recycles, or disposes of TWW.

“Unit” means a pile, stack, container, bundle, or other discernable aggregation of TWW for purposes of this chapter.

“Wood waste” means all waste timber products and failed timber products including solid sawn lumber and engineered wood products, offcuts, shavings and sawdust that meet the definition of “waste” pursuant to Health and Safety Code section 25124.

“Wood Waste” does not mean forest residues, green waste, or garden waste materials such as branches, bushes and tree stumps.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code. Reference: Sections 25150.7 and 25150.8, Health and Safety Code; Sections 40116, 40117, 40195.1, 40200, and 40201, Public Resources Code; and Section 13173 Water Code.

§ 67386.5 Labeling

(a) TWW generated, accumulated, stored, or transported within California shall be clearly marked and visible for inspection. The person managing the TWW shall ensure that each unit and/or area designated for accumulation of TWW is labeled. The area designated for accumulation of TWW shall be clearly identified and used solely for the accumulation of TWW.

(b) In order to clearly identify the nature of the waste to the receiving party and/or any observer, the TWW shall be labeled or marked with the following:

“TREATED WOOD WASTE –Do not burn or scavenge.

TWW Handler Name and Address:

Accumulation Date:

”

(c) The TWW handler shall ensure that labels are maintained in compliance with the requirements of subsections (a) and (b) during transport.

(d) TWW accumulated for a period not to exceed thirty (30) days by a household at the site of generation in compliance with the requirements of section 67386.6 is exempt from the labeling requirements of this section.

(e) TWW generated by a household while being self-transported to an approved TWW facility is exempt from the labeling requirements of this section if the TWW is identified to the TWW facility as TWW.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.6 Accumulation

(a) TWW shall be maintained in a manner that prevents unauthorized access and minimizes release to the environment.

(1) Unauthorized access shall be prevented by means of visual control or a physical barrier when not under the direct control of the person responsible for the TWW.

(2) The TWW shall be accumulated in a manner that is protected from run-on and run-off, and placed on a surface sufficiently impervious to prevent, to the extent practical, contact with and leaching to soil or water, which may be accomplished by one of the following:

(A) Block and Tarp:

The TWW may be accumulated when all the following requirements are met:

1. TWW is elevated to prevent contact with the soil and to protect from reasonably foreseeable run-on; and
2. TWW is covered to protect from precipitation; and
3. TWW is accumulated no longer than 90 days from the date the TWW is generated or received from another handler; or

(B) Containerize:

The TWW may be accumulated in containers no longer than one year from the date the TWW is generated or received from another handler.

The containers shall be:

1. designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incidental to handling, there will be no identifiable release of TWW materials or its constituents to the environment; and
2. water-resistant if exposed to precipitation, run-on or run-off under reasonably foreseeable conditions; and
3. transported to an approved landfill within 90 days of being filled to capacity; or

(C) Storage Building:

The TWW shall be accumulated no longer than one year from the date the TWW is generated or received from another handler in a structurally sound building with a water-resistant floor designed to prevent the movement of water into or out of the building; or

(D) Containment Pad:

The TWW may be accumulated no longer than 180 days from the date the TWW is generated or received from another handler on a containment surface and all the following requirements are met:

1. TWW does not contact soil;
2. TWW is protected from reasonably foreseeable run-on; and
3. TWW is covered to protect from precipitation.
4. TWW managed in accordance with this subsection may be accumulated uncovered if the containment surface is designed and

operated to contain all precipitation and the resulting water is managed in accordance with all applicable laws and regulations.

(E) Other:

The TWW may be accumulated no longer than 90 days from the date the TWW is generated or received from another handler in any other manner in which the TWW handler can clearly demonstrate that the TWW is protected from run-on and run-off, and placed on a surface sufficiently impervious to prevent, to the extent practical, contact with and leaching to soil or water.

(b) Except as provided in subsection (c), in no case shall TWW be accumulated for more than one year from the date of generation or the date received from another handler.

(c) A handler may accumulate TWW for longer than one year from the date the TWW is generated or received from another handler, if the accumulation is solely for the purpose of accumulation of quantities of TWW necessary to facilitate disposal pursuant to section 67386.11. However, the handler bears the burden of proving that the accumulation was solely for the purpose of accumulation of quantities of TWW necessary to facilitate proper disposal.

(d) A person who accumulates TWW shall be able to demonstrate the length of time the TWW has been accumulated from the date it becomes a waste or is received.

(e) A business handling TWW shall provide training for all employees handling TWW and all employees that may reasonably be expected to contact TWW. A record of the training shall be maintained for a period of three years and available for review. The training shall include:

- (1) all applicable requirements of the California Occupational Safety and Health Act of 1973 (ch. 1, part 1, div. 5 (commencing with § 6300) of the Labor Code), including all rules, regulations, and orders relating to hazardous waste;
- (2) procedures for identifying and segregating TWW;
- (3) safe handling practices;
- (4) requirements of the alternative management standards; and
- (5) proper disposal methods.

(f) TWW generated incidental to the maintenance of a household and accumulated by the resident of the household at the site of generation is exempt from the accumulation requirements of this section if all of the following requirements are met:

- (1) TWW is not physically altered except as provided in section 67386.10; and
- (2) TWW is accumulated no longer than thirty (30) days.

(g) TWW generated incidental to the operation of a business accumulated at the site of generation for a period not to exceed thirty (30) days is exempt from the accumulation requirements of this section if:

- (1) TWW is not physically altered except as provided in section 67386.10; and

(2) the business accumulates no more than 1,000 pounds of TWW.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.7 Offsite Shipments

(a) Except as provide in subsection (c), a TWW handler is prohibited from sending or taking TWW to a place other than a TWW facility, or a TWW approved landfill.

(b) Prior to sending a shipment of TWW to another TWW handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.

(c) A TWW handler who initially collects TWW at a remote site may transport that TWW to a consolidation site operated by the generator if all the following conditions are met:

(1) the TWW is transported by the generator, employees of the generator or by the generator's agent.

(2) a shipping document containing all of the following information accompanies the TWW while in transport:

(A) the quantity, by weight or volume, of TWW being transported.

(B) the location of the remote site where the TWW was initially collected.

(C) the date that the generator first began to accumulate the TWW at the remote site, the date that the shipment leaves the remote site, and the date that the shipment arrives at the consolidation site.

(D) the name, address, and telephone number of the generator, and, if different, the address and telephone number of the consolidation site to which the TWW is being transported.

(E) the name of the individual or individuals who transport the TWW from the remote site to the consolidation site.

(3) the TWW handler shall retain the shipping document described in subsection

(c)(2) of this section for at least three years from the date the TWW leaves the TWW consolidation site.

(d) TWW shall be shipped and/or transported in a manner that prevents unauthorized access; protects the TWW from precipitation; and prevents loss, dispersion, and leaching of TWW constituents.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.

Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.8 Tracking Shipments

(a) Shipments off-site. A TWW handler shall keep a record of each shipment of TWW sent from the handler to TWW facilities. The record may take the form of a log, invoice, manifest, bill of lading, shipping document, or receipt from a TWW facility. The record for each shipment of TWW shall include the following information:

- (1) name and address of the TWW facility to which the TWW was sent;
- (2) weight of TWW, the estimated weight of TWW, or the weight of the TWW as measured by the receiving TWW facility (An estimated weight may be used when a scale is unavailable or weighing is impractical. Assumptions required for weight estimates shall be recorded in the shipment records.);
- (3) date the shipment of TWW left the handler.

(b) Receipt of shipments. A TWW handler shall keep a record of each shipment of TWW received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of TWW received shall include the following information:

- (1) name and address of the originating TWW generator from whom the TWW was sent;
- (2) weight of TWW or the estimated weight of TWW (An estimated weight may be used when a scale is unavailable or weighing is impractical. Assumptions required for weight estimates shall be recorded in the shipment records.); and
- (3) date of receipt of the shipment of TWW.

(c) Reporting receipt of shipments. A TWW facility or a TWW approved landfill that receives TWW shall submit, to the department, semi annual reports for the periods ending June 30 and December 31 of each year. Reports shall be required beginning December 31, 2007 and shall be submitted in an electronic format provided by the department within 30 days of the end of each reporting period.

(1) each semi annual report shall include the following information:

(A) reporting facility information;

- 1. Facility name, location address, contact person's name, and telephone number; and
- 2. Identification Number.

(B) for all TWW shipments received, other than those reported under subsections (C), (D), and (E) the TWW facility shall report the following information;

- 1. generator's Identification Number, or, if the generator does not have an Identification Number, the name, address, contact person's name, mailing address, and telephone number of the generator;
- 2. dates of shipments; and
- 3. weight of TWW per shipment.

(C) TWW household information;

- 1. weight summary of all TWW quantities received that were generated by households.

(D) TWW load check information;

1. Weight summary of all TWW quantities discovered and separated from solid waste as part of an on-site load checking program.

(E) for shipments received from another TWW facility the following information shall be reported by the receiving TWW facility;

1. TWW facility's Identification Number or the name, address, contact person's name, mailing address, and telephone number of the TWW facility;
2. dates of shipments; and
3. weight of TWW per shipment.

(d) The department shall make all of the information in the semi annual reports submitted pursuant to this subdivision available to the public, through its usual means of disclosure, except the department shall not disclose the association between any specific TWW handlers and specific facilities. The list of TWW handlers served by a facility shall be deemed to be a trade secret and confidential business information for purposes of Health and Safety Code section 25173 and section 66260.2 of title 22 of the California Code of Regulations.

(e) Record retention.

- (1) a TWW handler shall retain the records described in subsection (a) of this section for at least three years from the date the shipment left the handler, and
- (2) a TWW facility shall retain the records described in subsection (b) of this section for at least three years from the date of receipt of a shipment.

(f) Households are exempt from the recordkeeping requirements of this section when the TWW is generated incidental to that household.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7, 25150.8 and 25173, Health and Safety Code.

§ 67386.9 Notification

(a) In any calendar year that a TWW handler generates more than 10,000 pounds of TWW, the TWW handler shall obtain or maintain an Identification Number within 30 days of exceeding the weight threshold.

(b) In any calendar year that a TWW handler generates more than 10,000 pounds of TWW the handler shall send written notification to the Department within 30 days of exceeding the 10,000 pound limit.

(c) The notification shall include:

- (1) TWW handler's name and mailing address;
- (2) generator's Identification Number;
- (3) name and business telephone number of the person at the TWW handler's site who should be contacted regarding TWW management activities;
- (4) address or physical location of the TWW management activities;
- (5) date the TWW handler exceeded the 10,000 pound limit; and
- (6) a statement indicating that the handler is generating more than 10,000 pounds of TWW per calendar year.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.10 Treatment

(a) Treatment, as defined in Health and Safety Code section 25123.5, of treated wood waste managed in accordance with the alternative management standards of this chapter is prohibited except as provided in subsections (b) and (c).

(b) Resizing is exempt from the permitting requirements of this division when resized to facilitate transport or reuse and the following requirements are met:

- (1) TWW shall be handled in a manner that prevents the uncontrolled release of hazardous constituents to the environment; and
- (2) if size reduction of the TWW results in sawdust, particles, or other material smaller than one cubic inch, the material shall be captured and managed as TWW.

(c) Sorting and segregating are both exempt from the permitting requirements of this division. The TWW shall be:

- (1) handled in a manner that prevents the uncontrolled release of hazardous constituents to the environment.

(d) A business resizing, sorting, or segregating TWW shall provide training for all employees handling TWW and all employees that may reasonably be expected to contact TWW. A record of the training shall be maintained for a period of three years and available for review. The training shall include:

- (1) all applicable requirements of the California Occupational Safety and Health Act of 1973 (ch. 1, part 1, div. 5 (commencing with § 6300) of the Labor Code), including all rules, regulations, and orders relating to hazardous waste;
- (2) procedures for identifying and segregating TWW;
- (3) safe handling practices;
- (4) requirements of the alternative management standards; and
- (5) proper disposal methods.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code.

§ 67386.11 Disposal

(a) When disposed to land, TWW shall be disposed in either a Class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, and that is regulated by waste discharge requirements issued pursuant to division 7 (commencing with § 13000) of the Water Code for discharges of designated waste, as defined in section 13173 of the Water Code, or TWW.

(b) A solid waste landfill that accepts TWW shall:

- (1) comply with the prohibitions in section 67386.3 for handling TWW;
- (2) ensure that any management of the TWW at the solid waste landfill prior to disposal complies with the applicable requirements of this chapter;
- (3) monitor the composite-lined portion of a landfill unit at which TWW has been disposed. When a release is verified, cease discharge of TWW to that landfill unit until corrective action results in cessation of the release. The landfill shall notify the department that TWW is no longer be discharged to that landfill unit and when corrective action results in cessation of the release; and
- (4) handle TWW in a manner consistent with all applicable requirements of the California Occupational Safety and Health Act of 1973 (ch. 1, part 1, div. 5 (commencing with § 6300) of the Labor Code), including all rules, regulations, and orders relating to hazardous waste.

Note: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code.
Reference: Sections 25150.7 and 25150.8, Health and Safety Code; and Section 13173 Water Code.